



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : COOPER, Richard Charles Gordon
Appl. No. : 10/730,990
Filed : December 10, 2003
Title : APPARATUS AND METHOD FOR ASSESSING PSYCHOLOGICAL STATE

Grp./A.U. : 3736
Examiner : Astorino, Michael C.

Docket No.: 63-5

Mail Stop PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RENEWED PETITION UNDER 37 C.F.R. 1.137(b)

As set forth in a Decision mailed August 12, 2008, the Office of Petitions has dismissed a petition under the unintentional provisions of 37 C.F.R. § 1.137(b), filed July 20, 2007, to revive the above-referenced application. Consequently, the Applicant hereby timely requests reconsideration of the decision for the reasons set forth in detail below.

As set forth in the Decision, a grantable petition under 37 C.F.R. § 1.137(b) for the application requires: (1) a reply to an outstanding final Office action; (2) the petition fee set forth in 37 C.F.R. § 1.17(m); a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a petition was unintentional; and (4) a terminal disclaimer, if applicable. With regard to the petition filed on

July 20, the petition included: (1) a reply to the outstanding final Office action and payment for a three-month extension of time; (2) payment of the petition fee; and (3) form PTO/SB/64 having a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a petition was unintentional. However, the Office of Petitions has determined the reply to the Office action was insufficient. Specifically, the reply does not *prima facie* place the application in a condition for allowance because the amended claims are indefinite under 35 U.S.C. § 112, paragraph 2.

In response to the Decision, this renewed petition includes a new reply to the final Office action, a Request for Continued Examination (RCE), and payment of the RCE fee. The reply includes further amendments to the claims to omit any terms which would render the claims indefinite. In light of the amended claims and the RCE, the Applicant respectfully asserts that the reply to the outstanding final Office action is complete.

In conclusion, the Applicant respectfully asserts that the amended reply to the final Office action and the RCE submitted herewith, in addition to the petition fee and the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a petition was unintentional filed on July 20, meets the requirements of 37 C.F.R. § 1.137(b).

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Further, since this renewed petition is being timely submitted within two months of the mailing date of the decision, the Applicant respectfully maintains that no other fees are due at this time. However, any deficiencies in payment of fees may be charged to deposit account no. 502171. Consequently, the Applicant respectfully request that the Office of Petitions grant this renewed petition under 37 C.F.R. § 1.137(b).

Respectfully submitted,

By Cynthia J. Ledgley
Cynthia J. Ledgley
Reg. No. 34, 533
Date: October 14, 2008

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